FILED
8-08-16
04:59 PM

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2015 Energy Resource Recovery Account (ERRA) and 2015 Generation Non-Bypassable Charges Forecasts (U 39 E).	)	A.14-05-024 (Filed May 30, 2014)

OPENING COMMENTS OF CITY OF LANCASTER, MARIN CLEAN ENERGY AND SONOMA CLEAN POWER AUTHORITY ON THE PROPOSED DECISION

Scott Blaising
BRAUN BLAISING MCLAUGHLIN & SMITH, P.C.
915 L Street, Suite 1270
Sacramento, CA 95814
Telephone: (916) 712-3961
E-mail: blaising@braunlegal.com

Counsel for the City of Lancaster
and Sonoma Clean Power Authority

Shalini Swaroop
Regulatory Counsel
MARIN CLEAN ENERGY
1125 Tamalpais Drive
San Rafael, CA 94901
Telephone: (415) 464-6040
E-Mail: sswaroop@mceCleanEnergy.org

August 8, 2016

TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY 1

II. COMMENTS 3

A. THE PROPOSED DECISION SHOULD FURTHER UNDERSCORE THE UNIVERSALITY OF A SINGLE VINTAGE WITHIN A CCA SERVICE TERRITORY 3

B. THE PROPOSED DECISION SHOULD BE CLARIFIED SO THAT THE RE-VINTAGING EXCEPTION ONLY APPLIES TO CUSTOMERS THAT MIGHT IMPACT THE IOUS' GENERATION LIABILITIES 7

C. THE CCA PARTIES LOOK FORWARD TO COLLABORATIVELY PARTICIPATING IN THE UPCOMING PCIA WORKING GROUP PROCESS 9

III. PROPOSED CHANGES 11

IV. CONCLUSION 11

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2015 Energy Resource Recovery Account (ERRA) and 2015 Generation Non-Bypassable Charges Forecasts (U 39 E).	)	A.14-05-024 (Filed May 30, 2014)

OPENING COMMENTS OF CITY OF LANCASTER, MARIN CLEAN ENERGY AND SONOMA CLEAN POWER AUTHORITY ON THE PROPOSED DECISION

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), the city of Lancaster ("Lancaster"), Marin Clean Energy ("MCE") and Sonoma Clean Power Authority ("SCPA") (collectively, "CCA Parties") hereby submit the following comments on the *Proposed Decision of ALJ Tsen* ("Proposed Decision"). The CCA Parties' proposed changes to the findings of fact and conclusions of law are set forth in Appendix A.

I. INTRODUCTION AND SUMMARY

Commission staff are to be commended for resolving a longstanding concern of the CCA Parties – one first raised by MCE over two years ago.[1] Commission staff undertook extraordinary efforts to fully understand the "endless permutations in which PCIA vintages can

[1] *See* Proposed Decision at 13; note 29 (referencing the *Response of Marin Clean Energy* at 4-5 ["[Pacific Gas and Electric Company's ("PG&E")] 're-vintaging' [methodology] distorts the purpose of the [Power Charge Indifference Adjustment ("PCIA")] and enables PG&E to recover procurement costs from unbundled customers indefinitely. Such re-vintaging occurrences provide PG&E with a significant competitive advantage."]).

be reset…."[2] Commission staff also sought to more fully understand broader PCIA issues. All told, staff coordinated and managed two key workshops, including the development of accompanying workshop reports, and analyzed multiple rounds of written comments and briefs. The CCA Parties appreciate these extraordinary efforts.

The Proposed Decision concludes that, among other defects, "[t]he current [vintaging] methodology is administratively cumbersome"[3] and "inconsistent with Commission precedents."[4] The CCA Parties support these conclusions. Based on these foundations and on the bundled customer indifference principle, the Proposed Decision generally provides a fair and easily-implemented solution to the vintaging issue.[5] However, the Proposed Decision requires clarification in two areas.

First, the Proposed Decision should be clarified with respect to its conclusion that "vintages are assigned based on initial service in a territory [and] that vintage should be locked to the service area." Specifically, as further described below, even in a CCA service "area/territory" that, for administrative or other reasons, has multiple roll-out tranches, a single vintage should apply, provided the roll-out is described in the implementation plan for the service area.

Second, the Proposed Decision should be clarified insofar as necessary to ensure that the Proposed Decision's lone "re-vintaging" exception only applies when it is reasonably clear that the investor-owned utility ("IOU") would expect to incur long-term generation liabilities. As it

---

2 *See* Proposed Decision at 14.

3 *See* Proposed Decision at 14.

4 *See* Proposed Decision at 20; Conclusion of Law 2.

5 *See, e.g.,* Proposed Decision at 16 ("We believe th[e] [adopted] method is consistent with commission precedent, is administratively simple, and conforms with the bundled customer indifference principle.")

stands now, the Proposed Decision could be construed as saddling a single residential customer with a new vintage if that customer remains with the IOU and then later elects to receive service from the Community Choice Aggregator. Such an approach would violate the Commission's administrative simplicity standard, and it would be at odds with Commission precedent that embraces a materiality standard – one that assumes reasonable levels of load migration. The Proposed Decision should be clarified to apply the re-vintaging exception to customers large enough to materially impact IOU long-term load forecasts, not residential or small customers.

Finally, the CCA Parties commend the Commission for inviting further collaborative efforts with respect to PCIA reforms. The CCA Parties look forward to participating in the working group process inaugurated in the Proposed Decision, particularly with respect to key issues surrounding the transparency and "certainty" of the PCIA. The working group process is the first step in fulfilling the commitment made by the Commission to re-examine PCIA issues. The CCA Parties are committed to working collaboratively through the working group process to ultimately achieve the goal first articulated by the Assigned Commissioner: "to come up with a [PCIA] method which complies with Commission precedent, reduces stranded costs to bundled customers, and allows for an eventual end to vintaging charges."[6]

II. COMMENTS

A. The Proposed Decision Should Further Underscore The Universality Of A Single Vintage Within A CCA Service Territory

The Proposed Decision adopts a simple, overarching approach to the PCIA within "a CCA area/territory." At the outset, it might be helpful to define terms. The Proposed Decision interchangeably refers to the terms "area" and "territory," and the CCA Parties understand these

[6] *See Assigned Commissioner's Ruling Amending Scope and Setting Out Briefing Schedule*, dated August 10, 2015 ("ACR"), at 4.

terms to mean a discrete geographic area within which the Community Choice Aggregator will provide service, as reflected in its CCA implementation plan. As illustrated by MCE's and SCPA's programs, the breadth of a Community Choice Aggregator's overall CCA "program" may, over time, include multiple service areas.[7] These multiple service areas might have different vintages reflective of different service initiation dates.[8] Importantly, however, as further discussed below, roll-out tranches or phases *within* a particular service area would *not* have different vintages; all roll-out tranches or phases *within* a service area would have the *same* vintage. The CCA Parties believe this is clearly reflected in the Proposed Decision.

The Proposed Decision states that "PCIA vintages [should] be assigned to CCA customers based on the date that CCA service is initiated in that area-whether it is through initiating service, or the binding notice of intent process."[9] As part of its explanation of this approach, the Proposed Decision further states that "[s]ince vintages are assigned based on initial service in a territory, that *vintage should be locked* to the service area."[10] Simply stated, within a CCA service area there will be one PCIA vintage, with only one exception: a later vintage will be assigned to individual customers that affirmatively opt out of CCA service, receive service from an IOU and then return to CCA service, and in doing so negatively affect the IOU's generation procurement liabilities.

The clarity and simplicity of the Proposed Decision's approach may be compromised by

---

[7] For example, MCE's CCA program has grown over time to include multiple service areas. MCE's service area relating to the city of Richmond is different than MCE's CCA service area relating to unincorporated Napa County.

[8] For example, MCE initiated CCA service to unincorporated Napa County in February 2015 and MCE will initiate CCA service to the incorporated cities in Napa County in September 2016, resulting in different vintages for these service areas.

[9] Proposed Decision at 15.

[10] Proposed Decision at 15.

PG&E. On July 29, 2016, counsel for PG&E distributed what PG&E refers to as "Vintaging Implementation Rules" ("PG&E Rules").[11] PG&E distributed the PG&E Rules for the purpose of advancing its views and getting input, in particular on a situation PG&E believes is not "explicitly addressed" in the Proposed Decision. Specifically, PG&E wishes to advance a new rule for "circumstances where a [Community Choice Aggregator] phases in service for a single geographic period [sic] over an extended period of time – in some cases up to 5 to 6 years." Under the PG&E Rules, instead of having one PCIA vintage for the entire CCA service area, as reflected in the Proposed Decision, customers within the same CCA service area would have different PCIA vintages. The PG&E Rules would assign a later PCIA vintage to customers that are part of successive roll-out tranches within the same CCA service area.

In light of potential confusion and customer inequity caused by the PG&E Rules, the Proposed Decision should further clarify that a single PCIA vintage will apply to a CCA service area irrespective of the fact that the Community Choice Aggregator may roll-out or phase-in service in that area over different periods of time, provided such roll-out is described in the Community Choice Aggregator's CCA implementation plan.

Not only is the "one vintage" approach explicitly called out in the Proposed Decision, but treatment of the roll-out circumstance also can be reasonably inferred with reference to other parts of the Proposed Decision. An example of this is the Proposed Decision's treatment of

[11] The CCA Parties understand that PG&E will be introducing the PG&E Rules as part of its opening comments. As requested by PG&E, counsel for the CCA Parties provided initial feedback and input on the PG&E Rules. While the CCA Parties are appreciative of PG&E's effort to obtain advanced feedback, the CCA Parties are dismayed that PG&E has chosen yet-again to pursue an approach that would make the PCIA vintaging methodology "administratively cumbersome" and "inconsistent with Commission precedents."

"new service points in a CCA territory."[12] The Proposed Decision states that "[w]e also see no reason why new vintages would need to be assigned to new service points in a CCA territory after initiation of CCA service."[13] As rationale, the Proposed Decision further states that "[s]ince we task each CCA with forecasting its load once it initiates service, any new load within CCA territory should be assigned the same vintage based on the CCA phase in date."[14] From a *long-term* generation procurement perspective, there is no practical difference between the IOU's procurement obligation for a "new service point," on the one hand, and a customer in a succeeding roll-out tranche, on the other hand. This is so because re-vintaging (*i.e.*, assigning a later vintage) turns on whether there is an obligation or reasonable expectation to procure long-term resources.[15] The operative issue is who, as between the IOU and the Community Choice Aggregator, has the reasonable expectation of providing for the long-term electric needs of the load. In both cases, since the Community Choice Aggregator is the *default* provider, this expectation resides with the Community Choice Aggregator.[16] As such, in both cases there is no need to assign a later vintage.

As described above, the CCA Parties believe that the Proposed Decision should be reinforced to affirm that a single vintage will apply to the *entire* service area reflected in the Community Choice Aggregator's CCA implementation plan, even in a service area that, for

---

12 *See* Proposed Decision at 14 -15.

13 Proposed Decision at 14.

14 Proposed Decision at 15.

15 *See, e.g.,* D.08-09-012; Appendix C (defining "stranded costs" as "costs related to utility investments in generation plants or *long-term* power contracts that are not economical in a competitive market.").

16 *See, e.g., Administrative Law Judge's Ruling Establishing Second Phase And Amending Scope Of The Proceeding,* dated February 26, 2015 at 1 (describing Community Choice Aggregators as "default providers for customers within their service area after the phase in date."). *See also Phase 2 Workshop Report*, dated March 27, 2015, at 4.

administrative or other reasons, has multiple roll-out tranches. Relying on the Community Choice Aggregator's CCA implementation plan should allay any fears or concerns that PG&E may have as to its need to procure long-term generation resources for later roll-out tranches.

B. The Proposed Decision Should Be Clarified So That The Re-Vintaging Exception Only Applies To Customers That Might Impact The IOUs' Generation Liabilities

The Proposed Decision establishes a lone exception to the rule that a single PCIA vintage should apply universally to all customers within the CCA service territory: The Proposed Decision states that the "PCIA vintage should be reset *only* when a customer affirmatively opts out of CCA service, and then opts back in at a later time."[17] The basis for this exception is a finding by the Proposed Decision that "utilities incur generation liabilities on behalf of those customers, and a new PCIA vintage should be assigned when they elect to leave bundled service at a later date."[18] As further described below, while such a finding might apply with respect to large customers that migrate, this finding would not apply to residential and small customers. Moreover, resetting the PCIA vintage for every residential or small customer that might switch (perhaps even mistakenly based on confusion regarding the opt-out process) would violate the administrative simplicity standard, which is repeatedly and clearly articulated in the Proposed Decision. For these reasons, the Proposed Decision should be modified to clarify that resetting the PCIA vintage only applies to large customers. For those customers, the PCIA should reflect only the incremental generation liabilities incurred on their behalf for the time period they

---

[17] Proposed Decision at 14 (emphasis added). The Proposed Decision concludes that the relevant period for considering a customer's "opt out" is at the phase in or initiation of CCA service, not later action by the customer. (*See* Proposed Decision at 21; Conclusion of Law 3. *See also* Finding of Fact 9, Conclusion of Law 1 and Ordering Paragraph 2.). This point should be further clarified, as described in Attachment A.

[18] Proposed Decision at 14. *See also* Proposed Decision at 20; Finding of Fact 9.

received IOU service (*i.e.*, from their initial opt out until their return to CCA service).

Minor customer load migration has been previously addressed by the Commission. In D.08-09-012, the Commission described how small CCA customer migration (switching) issues should be addressed in the context of the PCIA. Importantly, the Commission did not intimate that the PCIA vintage should be reset for small load migration. To the contrary, the Commission embraced the view that small load variations should level out over time and should not result in stranded costs.[19] As such, the remedy provided was *not* tied to the PCIA and re-vintaging; rather, the remedy provided was tied to forecasting, with the expectation that the IOUs are fully capable of adjusting their portfolios to account for small load variations.[20] Stated differently, in these situations, the utilities do not incur *long-term* generation liabilities, and therefore there are no "stranded" costs to be recovered.[21]

The Proposed Decision is right to give great weight to the importance of administrative simplicity. For example, in criticizing the re-vintaging methodology, the Proposed Decision held that the "[t]he current methodology is administratively cumbersome…"[22] while stating that

---

19 *See, e.g.,* D.08-09-012 at 21 ("[T]here may be differences between the amounts of departing load implicit in the load forecasts and the amounts recorded on a year-by-year basis, over time any such variations should level out and bundled customer indifference will be maintained.").

20 *See, e.g.,* D.08-09-012 at 54 ("[T]he utilities can, over time, adjust their load forecasts and resource portfolios to mitigate the effects of [departing load] on bundled service customer indifference.").

21 *See* note 18, above (describing the Commission's definition of "stranded costs"). *See also* D.04-12-046 at 29 (describing the connection between proper resource planning by the IOUs and the recovery of stranded costs ["Our complementary objective is to minimize the CRS (and all utilities liabilities that are not required) and promote good resource planning by the utilities."]).

22 *See* Proposed Decision at 14.

the adopted methodology is "administratively simple."[23] Assigning a new PCIA vintage to residential and small customers that switch service would violate the administrative simplicity standard. This approach is also not justified. As shown above, it would be factual error to hold that the IOUs incur stranded costs for minor levels of small customer load switching; this simply is not the case. As such, the CCA Parties request that the Proposed Decision be clarified to ensure that re-vintaging does not apply to residential or small customers.

C. The CCA Parties Look Forward To Collaboratively Participating In The Upcoming PCIA Working Group Process

The Proposed Decision references the wide-ranging discussion that occurred at the March 8, 2016 PCIA workshop, and then concludes that "[m]ost parties at the workshop seemed amenable to working together whether as a working group or through settlement negotiations to propose changes to the PCIA program."[24] As a result, the Proposed Decision directs the formation of a working group, co-led by SCPA and Southern California Edison Company ("SCE"). The working group will address issues related to the PCIA, with particular focus on improved transparency and certainty related to the PCIA.[25] The CCA Parties support this effort.

Changes to the PCIA methodology should be expected. This is consistent with past Commission decisions and natural insofar as such changes reflect future expectations based on actual *history* of CCA activities. As noted by the Assigned Commissioner, "[w]hen the Commission issued its line of decisions and resolution on [Community Choice Aggregators] and

---

[23] *See* Proposed Decision at 16. *See also* Proposed Decision at 11-12; note 23 (referencing D.[0]4-12-046 at 27 [stating "a preference for a method that resulted in 'administrative simplicity and certainly for the CCAs and the Utilities.'"]).

[24] Proposed Decision at 17.

[25] *See* Proposed Decision at 18.

vintaging issues, the implementation of CCA programs was in its nascent stage."[26] This view was underscored by the Commission in D.08-09-012 when it stated that "*[a]t this time*, there is *insufficient history* of such [CCA] transactions and limited knowledge of [CCA] customers' intent to pursue such transactions in the future, for the [Investor-Owned Utilities ("IOUs")] to use in determining how much, or how long, power should be procured on such customers' behalf."[27] Nevertheless, instead of categorically fixing a particular methodology, the Commission stated that "[g]iven the potential long-term nature of the charge, we must allow for the possibility that certain future circumstances may result in a need to modify the NBC related processes adopted in this decision."[28]

One of the most notable areas where a change is needed relates to new load in a CCA service area. The CCA Parties addressed this extensively in their opening brief.[29] The CCA Parties recognize that the Proposed Decision addresses this issue as follows: "[s]ince we task each CCA with forecasting its load once it initiates service, any new load within CCA territory should be assigned the same vintage based on the CCA phase in date."[30] However, as noted above, the principal reason previously given by the Commission for not addressing CCA load in a manner comparable to municipal departing load was the absence of "sufficient history" of CCA transactions and knowledge about customers' intent to pursue CCA service.[31] Much has changed in nearly eight years. As such, the CCA Parties request that the working group and Commission give place for robust discussion on whether new load within a CCA service area should be

---

26 ACR at 3.

27 D.08-09-012 at 20 (emphasis added).

28 D.08-09-012 at 57-58.

29 *See* CCA Parties Opening Brief at 14-16.

30 Proposed Decision at 15.

31 *See* note 30 (citing D.08-09-012 at 20).

exempt from the PCIA, and if not whether there are nevertheless distinctions that would allow new load to be treated differently with respect to PCIA vintaging.

In sum, with the passage of time and actual operating history, there has been increasing expectations that the Commission would engage in an ongoing examination of the PCIA.[32] To date, however, this has not occurred in a substantive way, and so the CCA Parties reiterate their appreciation for the Commission's willingness to now examine these key issues.

III. PROPOSED CHANGES

In accordance with Rule 14.3(c), and in light of the discussion above, the CCA Parties set forth certain revised findings of fact and conclusions of law, as shown in Appendix A.

IV. CONCLUSION

The CCA Parties thank Administrative Law Judge Tsen and Commissioner Florio for their attention to the matters discussed herein.

Dated: August 8, 2016 Respectfully submitted,

/s/ Scott Blaising

Scott Blaising
BRAUN BLAISING MCLAUGHLIN & SMITH, P.C.
915 L Street, Suite 1480
Sacramento, CA 95814
Telephone: (916) 712-3961
E-mail: blaising@braunlegal.com

Counsel for the City of Lancaster
and Sonoma Clean Power Authority

/s/ Shalini Swaroop

Shalini Swaroop
Regulatory Counsel
MARIN CLEAN ENERGY
1125 Tamalpais Drive
San Rafael, CA 94901
Telephone: (415) 464-6040
E-Mail: sswaroop@mceCleanEnergy.org

Counsel for Marin Clean Energy

Appendix A: Redlined Changes to the Findings of Fact and Conclusions of Law

[32] *See, e.g.,* D.13-08-023 at 17. ("[W]e continue to be open to re-evaluating specific departing load charges in appropriate proceedings if changed circumstances warrant doing so.")

Appendix A
to the
Opening Comments of City of Lancaster, Marin Clean Energy
And Sonoma Clean Power Authority on the Proposed Decision

In accordance with Rule 14.3(c), the CCA Parties provide this appendix setting forth revised finding of facts and conclusions of law that incorporate comments offered by the CCA Parties:

Finding of Fact 9	When a large customer in a CCA territory opts out of CCA service and remains a bundled customer, the utility may incurs unexpected, long-term generation costs on that customer's behalf.
Conclusion of Law 1	PCIA vintage should be assigned to a CCA territory based on the date of initial CCA service, except for large customers that opt to remain with the incumbent utility and then opt back into CCA service at a later time. The PCIA vintage should be the same for the entire CCA territory, even for a CCA territory that rolls-out service in different tranches, provided the roll-out plan is described in the CCA implementation plan.
Conclusion of Law 3	Since large customers may cause the utilities to incur unexpected, long-term generation costs, large cCustomers opting out of CCA service at the phase in date should be assigned a new vintage if and when they opt into CCA service at a later date.